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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,509	11/28/2001	Gentaro Ishihara	10830-079001 / A36-137192	2324

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EXAMINER

HUGHES, DEANDRA M

ART UNIT	PAPER NUMBER
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3663

DATE MAILED: 04/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/996,509	ISHIHARA ET AL.
	Examiner Deandra M Hughes	Art Unit 3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 December 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 March 2002 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6 | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. Figure 7 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Information Disclosure Statement

2. Item AJ of the information disclosure statement filed 8/20/02 (paper #6) was not considered because the English Abstract translation was insufficient. In the instant application, claim language is directed towards the type of interpolation (spline or moving average) used in the noise figure measurement. In the reference not considered, it is unclear from the English Abstract alone as to what type of interpolation was used in the noise figure measurement. Consequently, a translation is required for this reference to be considered.

Claim Objections

3. Claim 1 is objected to because of the following minor informality: the word 'form' in the 3rd to last line should be 'from'. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2 and 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by admitted prior art. In particular, pages 1-2 of the specification and figure 7 disclose the apparatus claimed in claims 1-2 and its method of use in claims 7-8.

6. Claims 1-4 and 6-10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Hentschel (US 5,696,707 published Dec. 9, 1997). Hentschel discloses the claimed noise figure measurement apparatus and methods in fig. 3. Please note the use of the spline approximation.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henstchel (US 5,696,707) in view of Lerkvarnyu (Moving Average..., 1998). Hentschel does not specifically disclose removing noise via a moving average process. However, this is a well-known signal processing method by which noise is removed. Lerkvarnyu teaches this method. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a well-known signal processing method for the advantage of removing noise from the signal.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Uchiyama, Mori ('649), Mori ('082), Farber, Bray, Masuda, and

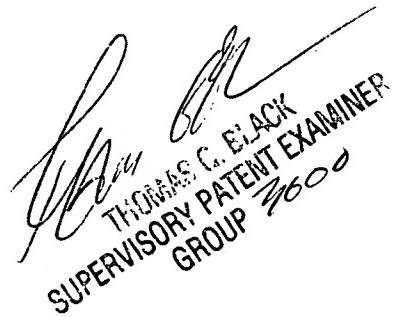
Aida disclose noise figure measurement apparatuses and methods for optical amplifiers.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deandra M Hughes whose telephone number is 703-306-4175. The examiner can normally be reached on M-F, 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G Black can be reached on 703-305-9707. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

DMH
April 14, 2003


THOMAS C. BLACK
SUPERVISORY PATENT EXAMINER
GROUP 3600